

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOSEPH JACKSON

v.

NORTHAMPTON COUNTY COURTS

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CIVIL ACTION NO. 20-6597

McHugh, J.

September 28, 2023

MEMORANDUM

This is a petition for a writ of habeas corpus that was assigned to Magistrate Judge Timothy Rice for a report and recommendation. Judge Rice fulfilled his obligations, and issued his recommendation on May 28th, 2021. In the report, he points out that Mr. Jackson's petition was premature, because he had not yet stood trial on the state criminal charges that were the subject of his request for relief. Accordingly, Judge Rice recommended that the petition be denied without prejudice.

Mr. Jackson filed objections, but erroneously designated them as a notice of appeal. As a result, the motions were terminated on the docket. In fact, Mr. Jackson did not appeal to the Third Circuit, but as the assigned judicial officer I was unaware that there was a petition awaiting resolution because the docket reflected no motion ripe for consideration. Had I been aware, I would have adopted Judge Rice's recommendation as his conclusion was clearly correct. I will do so now.

In the meantime, Mr. Jackson was tried and convicted of the underlying state charges, and recently filed a new petition for a writ of habeas corpus. 23-cv-00741. That petition suffered from various procedural irregularities. Mr. Jackson corrected them as of September 11th, 2023,

and the case has now been referred to Magistrate Judge Lynne Sitarski for a report and recommendation.

The order accompanying this memorandum will close this case without issuing a certificate of appealability, as there is no prejudice to Mr. Jackson in having any arguments he seeks to make considered in the recently filed action.

/s/ Gerald Austin McHugh
United States District Judge